

2009 DRAFTING REQUEST

Bill

Received: **01/20/2009**

Received By: **emueller**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 266-1039**

By/Representing: **Byrnes**

This file may be shown to any legislator: **NO**

Drafter: **emueller**

May Contact:

Addl. Drafters:

Subject: **Transportation - other
Transportation - motor vehicles**

Extra Copies: **ARG**

Submit via email: **NO**

Pre Topic:

DOA:.....Byrnes, BB0453 -

Topic:

Increase driver abstract fee

Instructions:

See attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							State
/1	emueller 01/21/2009	wjackson 01/21/2009	rschluet 01/21/2009		mbarman 01/22/2009		State
/2	emueller 02/09/2009	wjackson 02/09/2009	rschluet 02/09/2009		sbasford 02/09/2009		State
/3	emueller 02/10/2009	kfollett 02/10/2009	jfrantze 02/10/2009		sbasford 02/10/2009		

FE Sent For:

<END>

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/2	emueller 02/09/2009	wjackson 02/09/2009	rschluet 02/09/2009		sbasford 02/09/2009		

FE Sent For:

Emu
2/19/09

13/6/09
2/10

2/10
2/10
<END>

2009 DRAFTING REQUEST

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Extra Copies: **ARG**

Submit via email: **NO**

Pre Topic:

DOA:.....Byrnes, BB0453 -

Topic:

Increase driver abstract fee.

Instructions:

See attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller	1 wj 1/21					
1	EUM 1/28/09						
FE Sent For:							

<END>

2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Increase Driver Abstract Fee
- Tracking Code: BB0453
- SBO team: Tax, Transportation and Budget Development Team
- SBO analyst: Tyler Byrnes
 - Phone: 266-1039
 - Email: tyler.byrnes@wisconsin.gov
- Agency acronym: DOT
- Agency number: 395
- Priority (Low, Medium, High): High

Intent: Please prepare a draft that increases the fee the Department of Transportation charges for the release of a paper driver abstract by two dollars. Leave the fee for electronic release unchanged. Amend 343.24(2)(a) to .."for each **paper** file search, **\$7**"

Create a definition for government agency that includes the agencies described under DPPA - those agencies who would be subject to the categories in Form MV2896, Section C, boxes # 3, 4, 5 authorization boxes. Create language within 343.24(2) that for those government agencies (as defined above) who request a paper file search, the fee will be \$7 (per amended (a)). Effective date is January 1, 2010 to allow for process changes and notification.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1653/?

EVM:Y:....

① Note

LPS: Please
fix request.

Wlj

RMR

DOA:.....Byrnes, BB0453 - Increase driver abstract fee

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

In 1/28

Do NOT GEN

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

✓ TRANSPORTATION

must ✓ DRIVERS AND MOTOR VEHICLES

Under current law, DOT ~~is~~ ^{must} upon request by any person, ~~required to~~ ^{must} furnish an abstract of the operating record of any person. DOT ~~is required to~~ ^{must} charge the following fees for searches of vehicle operators' records: \$5 for any file search, \$5 for any computerized search, and \$6 or a monthly rate determined by DOT for any search requested by telephone. Under this bill, DOT must charge \$7 for every paper file search of vehicle operators' records.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 343.24 (2) (a) of the statutes is amended to read:

3 343.24 (2) (a) For each paper file search, \$5 \$7. ✓

1

2

3

4

(END)

① Note ✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1653/?dn

EVM:.....

Wlj

Date

ATTN: Tyler Byrnes

The draft I prepared includes the specific language change to s. 343.24 (2) (a) provided in your request, but does not include any additional statutory treatments. As to the treatment of s. 343.24 (2) (a), I am not sure whether this language meets the intent of your request. Specifically, the fee⁵ charged under s. 343.24 (2) ~~is~~^{are} for conducting searches, not for the release of an abstract of the operating record of a person. The change made by this draft would increase the charge for a physical records search performed by DOT regardless of the format of the abstract eventually prepared. If your intent is to charge an additional fee when a paper copy of an abstract is prepared, this could be accomplished by adding another paragraph under sub. (2), e.g. "(2) (d) For the furnishing of a paper copy of an abstract, \$2." ^Δ

In regards to the second portion of your request, s. 343.24 does not exempt governmental agencies from the charged fees. Therefore, I do not believe a special provision needs to be drafted indicating that the same fee applies. Additionally, the apparent definition of "any government agency" used in the Driver's Privacy Protection Act does not, in my opinion, add any information not already clearly indicated by the use of "any government agency." The DPPA merely specifies that courts and law enforcement agencies are included within the category. Absent some reason for confusion, simply using the term "any government agency" should include these groups without additional clarification.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1653/1dn
EVM:wlj:rs

January 21, 2009

ATTN: Tyler Byrnes

The draft I prepared includes the specific language change to s. 343.24 (2) (a) provided in your request, but does not include any additional statutory treatments. As to the treatment of s. 343.24 (2) (a), I am not sure whether this language meets the intent of your request. Specifically, the fees charged under s. 343.24 (2) are for conducting searches, not for the release of an abstract of the operating record of a person. The change made by this draft would increase the charge for a physical records search performed by DOT regardless of the format of the abstract eventually prepared. If your intent is to charge an additional fee when a paper copy of an abstract is prepared, this could be accomplished by adding another paragraph under sub. (2), e.g. "(2) (d) For the furnishing of a paper copy of an abstract, \$2."

In regards to the second portion of your request, s. 343.24 does not exempt governmental agencies from the charged fees. Therefore, I do not believe a special provision needs to be drafted indicating that the same fee applies. Additionally, the apparent definition of "any government agency" used in the Driver's Privacy Protection Act does not, in my opinion, add any information not already clearly indicated by the use of "any government agency." The DPPA merely specifies that courts and law enforcement agencies are included within the category. Absent some reason for confusion, simply using the term "any government agency" should include these groups without additional clarification.

Eric V. Mueller
Legislative Attorney
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov

Mueller, Eric

From: Byrnes, Tyler - DOA [Tyler.Byrnes@wisconsin.gov]
Sent: Friday, February 06, 2009 2:06 PM
To: Mueller, Eric
Subject: RE: LRB Draft: 09-1653/1 Increase driver abstract fee

Eric,

Make the changes you suggested. I ran them by DOT and they work well.

Thanks,

Tyler

From: Mueller, Eric [mailto:Eric.Mueller@legis.wisconsin.gov]
Sent: Friday, February 06, 2009 12:13 PM
To: Byrnes, Tyler - DOA
Subject: RE: LRB Draft: 09-1653/1 Increase driver abstract fee

Tyler,

After consulting with Aaron Gary, I don't think the changes you're requesting regarding charging government agencies are going to work. Section 343.24 (1) presently requires the DOT to provide an abstract to any requesting "person." "Person" has a very broad definition in s. 990.01(26) and includes "bodies politic" which includes government agencies. The only reasonable reading of s. 343.24 (2), in my opinion, is that the department may charge any requesting person the listed fees. There is, therefore, clear authority to charge government agencies for providing abstracts. Including the requested phrase "including government agencies" at any point in s. 343.24 (2) is unnecessary, because government agencies are included without additional language, and without effect, because adding the unnecessary language does not change the existing statutory definition of "person." That is, under the DOT approach, government agencies would continue to be subject to all the fees in s. 343.24(2). The only effect of adding the "including government agencies" language is, in my opinion, to create ambiguity in, at least, s. 343.24 and probably elsewhere.

A possible different approach is to withdraw the DOT's authority to charge governmental agencies for computerized searches and searches requested by phone. Something along the lines of:

- (2) Except as provided in pars. (b) and (c), the department shall charge the following fees to all persons for conducting searches of vehicle operator's records:
 - (b) For each computerized search, \$5. The department may not charge this fee to a body politic.
 - (c) For each search requested by telephone, \$6, or an established monthly service rate determined by the department. The department may not charge this fee to a body politic.

The drawback to this approach is that the department's charging of fees would not be a matter of policy, but of statute.

Eric

From: Byrnes, Tyler - DOA [mailto:Tyler.Byrnes@wisconsin.gov]
Sent: Friday, February 06, 2009 10:07 AM
To: Mueller, Eric
Cc: Kraus, Jennifer - DOA; Hanaman, Cathlene
Subject: FW: LRB Draft: 09-1653/1 Increase driver abstract fee

2/6/2009

Eric,

These are some changes to this draft that DOT has requested. Take a look and let me know if they would be too extensive to make given LRB's time frame.

Thanks,

Tyler

From: Baetsen, Karen - DOT
Sent: Thursday, February 05, 2009 4:26 PM
To: Byrnes, Tyler - DOA
Cc: Newman, Kenneth - DOT; Hammer, Paul - DOT
Subject: FW: LRB Draft: 09-1653/1 Increase driver abstract fee
Importance: High

DMV requests that the alternate method of drafting suggested by ERic Mueller, LRB, in the Drafter's Note, better meets the intended purpose of the fee increase. As such, the Section 1 of draft 1653/1 would not be amended and current language would remain unchanged. Then, within s. 343.24, create (2) (d) For the furnishing of a paper copy of an abstract, \$2.

We do not believe we have sufficient authority to charge government agencies a fee for furnishing a paper abstract. DMV wants to charge a government agency the new \$7 if they request a paper abstract. If they request the abstract through the electronic means, they will continue to obtain the information at no cost in accordance with current practice.

Can we obtain the authority in any of the following approaches?

- modify the new (d) above to specifically state ", including government agencies."
- amend (a) to "For each file search, \$5, including government agencies."

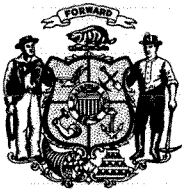
Karen Baetsen

Department of Transportation
Office of Policy, Budget and Finance
Room 132B Hill Farms
608/ 266-0179
karen.baetsen@dot.state.wi.us

-----Original Message-----

From: Schlueter, Ron - LEGIS
Sent: Wednesday, January 21, 2009 6:35 PM
To: Byrnes, Tyler - DOA
Cc: Grinde, Kirsten - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA
Subject: LRB Draft: 09-1653/1 Increase driver abstract fee

Following is the PDF version of draft 09-1653/1.



DNote
State of Wisconsin
2009 - 2010 LEGISLATURE

12
LRB-1653/1

EVM:wlj:rs

start

RMR

DOA:.....Byrnes, BB0453 - Increase driver abstract fee

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

Inserts

In 2/9

*Do Not
Gen Cat*

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

*Insert ✓
1-Analysis*

Under current law, DOT must, upon request by any person, furnish an abstract of the operating record of any person. DOT must charge the following fees for searches of vehicle operators' records: \$5 for any file search, \$5 for any computerized search, and \$6 or a monthly rate determined by DOT for any search requested by telephone. Under this bill, DOT must charge \$7 for every paper file search of vehicle operators' records.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

Insert 1-2

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 **SECTION 1.** 343.24 (2) (a) of the statutes is amended to read:

3 343.24 (2) (a) For each paper file search, \$5 \$7.

4 **SECTION 9450. Effective dates; Transportation.**

SECTION 9450

(int)(b)(1)(c) and (d)

1 (1) OPERATING RECORD SEARCH FEE. The treatment of section 343.24 (2) ~~(a)~~ of the
2 statutes takes effect on January 1, 2010.

3 (END)

① Note

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1653/2ins
EVM:wlj:rs

1 **INSERT 1-Analysis**

NOFF

Under this bill, DOT must charge \$2 for providing a paper copy of an abstract. Also under this bill, DOT is prohibited from charging the fee for a computerized search or for a search requested by telephone to any governmental unit.

2

3 **INSERT 1-2**

4 **SECTION ~~1~~ 343.24 (2) (intro.)** of the statutes is amended to read:

5 343.24 (2) (intro.) The Except as provided in pars. (b) and (c), the department
6 shall charge the following fees to any person for conducting searches of vehicle
7 operators' records:

History: 1975 c. 297 s. 9; Stats. 1975 s. 343.24; 1977 c. 29 s. 1654 (7) (e); 1979 c. 221, 331, 355; 1989 a. 105; 1991 a. 269; 1993 a. 16, 490; 1995 a. 113; Sup. Ct. Order No. 99-04, 228 Wis. 2d xxiii (2000); 1999 a. 88, 185; 2001 a. 16; 2007 a. 20.

8 **SECTION ~~2~~ 343.24 (2) (b)** of the statutes is amended to read:

9 343.24 (2) (b) For each computerized search, \$5. The department may not
10 charge this fee to any governmental unit, as defined in s. 895.51 (1) (dm).

History: 1975 c. 297 s. 9; Stats. 1975 s. 343.24; 1977 c. 29 s. 1654 (7) (e); 1979 c. 221, 331, 355; 1989 a. 105; 1991 a. 269; 1993 a. 16, 490; 1995 a. 113; Sup. Ct. Order No. 99-04, 228 Wis. 2d xxiii (2000); 1999 a. 88, 185; 2001 a. 16; 2007 a. 20.

11 **SECTION ~~3~~ 343.24 (2) (c)** of the statutes is amended to read:

12 343.24 (2) (c) For each search requested by telephone, \$6, or an established
13 monthly service rate determined by the department. The department may not
14 charge this fee to any governmental unit, as defined in s. 895.51 (1) (dm).

History: 1975 c. 297 s. 9; Stats. 1975 s. 343.24; 1977 c. 29 s. 1654 (7) (e); 1979 c. 221, 331, 355; 1989 a. 105; 1991 a. 269; 1993 a. 16, 490; 1995 a. 113; Sup. Ct. Order No. 99-04, 228 Wis. 2d xxiii (2000); 1999 a. 88, 185; 2001 a. 16; 2007 a. 20.

15 **SECTION ~~4~~ 343.24 (2) (d)** of the statutes is created to read:

16 343.24 (2) (d) For providing a paper copy of an abstract, \$2.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1653/2dn

EVM:wlj:js

stays

Date

ATTN: Tyler Byrnes

* In providing the exception for governmental agencies from the fees under s. 343.24 (2) (b) and (c), I used the term "governmental unit," as defined in s. 895.51 (1) (dm).[✓] This definition is quite broad; please ensure that it meets your intent.

Eric V. Mueller
Legislative Attorney
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1653/2dn
EVM:wlj:rs

February 9, 2009

ATTN: Tyler Byrnes

In providing the exception for governmental agencies from the fees under s. 343.24 (2) (b) and (c), I used the term "governmental unit," as defined in s. 895.51 (1) (dm). This definition is quite broad; please ensure that it meets your intent.

Eric V. Mueller
Legislative Attorney
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov

Mueller, Eric

From: Byrnes, Tyler - DOA [Tyler.Byrnes@wisconsin.gov]
Sent: Tuesday, February 10, 2009 12:15 PM
To: Mueller, Eric
Cc: Grinde, Kirsten - DOA; Kraus, Jennifer - DOA; Hanaman, Cathlene
Subject: LRB Draft: 09-1653/2 Increase driver abstract fee

Eric,

Can you make one more change to this draft?

DOT had a comment on adding an effective date to this draft:

We should add some initial applicability so that we don't have to stop or refund and any pre-paid monthly contracts we may have underway. Depend on our business practice if we bill first or provide first. First applies to operating record abstracts requested on the effective date, something like that.

If it's too late to make this change, let me know.

Thanks,

Tyler

2/10/2009



State of Wisconsin
2009 - 2010 LEGISLATURE

13
LRB-1653/2
EVM:wlj:rs

Inserts
DOA:.....Byrnes, BB0453 - Increase driver abstract fee

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

In 2/10

Don't Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

Under current law, DOT must, upon request by any person, furnish an abstract of the operating record of any person. DOT must charge the following fees for searches of vehicle operators' records: \$5 for any file search, \$5 for any computerized search, and \$6 or a monthly rate determined by DOT for any search requested by telephone. Under this bill, DOT must charge \$2 for providing a paper copy of an abstract. Also under this bill, DOT is prohibited from charging the fee for a computerized search or for a search requested by telephone to any governmental unit.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 343.24 (2) (intro.) of the statutes is amended to read:

343.24 (2) (intro.) The Except as provided in pars. (b) and (c), the department shall charge the following fees to any person for conducting searches of vehicle operators' records:

SECTION 2. 343.24 (2) (b) of the statutes is amended to read:

343.24 (2) (b) For each computerized search, \$5. The department may not charge this fee to any governmental unit, as defined in s. 895.51 (1) (dm).

SECTION 3. 343.24 (2) (c) of the statutes is amended to read:

343.24 (2) (c) For each search requested by telephone, \$6, or an established monthly service rate determined by the department. The department may not charge this fee to any governmental unit, as defined in s. 895.51 (1) (dm).

SECTION 4. 343.24 (2) (d) of the statutes is created to read:

343.24 **(2)** (d) For providing a paper copy of an abstract, \$2.

SECTION 9450. Effective dates; Transportation.

(1) OPERATING RECORD SEARCH FEE. The treatment of section 343.24 (2) (intro.), (b), (c), and (d) of the statutes takes effect on January 1, 2010. *and Section 93 CS*

(END)

use
autoresponse

43.24 (2) (intro.),
and ^{CS}section 9350 ^(H)
of this act

Insert 2-13 \longrightarrow

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1653/3ins
EVM:wlj:rs

1 **INSERT 2-13**

2 **SECTION 9350. Initial applicability; Transportation.**

3 **(1) OPERATING RECORD SEARCH FEE.** The treatment of section 343.24 (2) (intro.),

4 (b), (c), and (d) of the statutes first applies to searches of vehicle operators' records

5 requested on the effective date of this subsection.

*note
AR*



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1653/3
EVM:wlj:jf

DOA:.....Byrnes, BB0453 - Increase driver abstract fee

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

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The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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343.24 (2) (intro.) The Except as provided in pars. (b) and (c), the department
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operators' records:

SECTION 2. 343.24 (2) (b) of the statutes is amended to read:

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SECTION 3. 343.24 (2) (c) of the statutes is amended to read:

343.24 (2) (c) For each search requested by telephone, \$6, or an established monthly service rate determined by the department. The department may not charge this fee to any governmental unit, as defined in s. 895.51 (1) (dm).

SECTION 4. 343.24 (2) (d) of the statutes is created to read:

343.24 (2) (d) For providing a paper copy of an abstract, \$2.

SECTION 9350. Initial applicability; Transportation.

(1) **OPERATING RECORD SEARCH FEE.** The treatment of section 343.24 (2) (intro.), (b), (c), and (d) of the statutes first applies to searches of vehicle operators' records requested on the effective date of this subsection.

SECTION 9450. Effective dates; Transportation.

(1) **OPERATING RECORD SEARCH FEE.** The treatment of section 343.24 (2) (intro.), (b), (c), and (d) of the statutes and SECTION 9350 (1) of this act takes effect on January 1, 2010.

(END)